

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

DAMEN D. RABB,

Plaintiff,

v.

ESTEVEN FIGUEROA, et al.,

Defendants.

No. 1:23-cv-00843-JLT-SAB (PC)

ORDER DENYING PLAINTIFF'S MOTION
FOR CERTIFICATE OF APPEALABILITY

(ECF No. 51)

Plaintiff is appearing pro se and in forma pauperis in this civil rights action filed pursuant to 42 U.S.C. § 1983.

On April 17, 2024, Plaintiff filed a notice of appeal of the Court's March 19, 2024, order denying his motion for summary judgment, along with a motion for a certificate of appealability. (ECF Nos. 37, 50, 51.) Plaintiff is advised that while certificates of appealability are required in habeas corpus actions they are not needed in a civil rights action such as this one. See Miller-El v. Cockrell, 537 U.S. 322, 335-36, (2003) ("As mandated by federal statute, a state prisoner seeking a writ of habeas corpus has no absolute entitlement to appeal a district court's denial of his petition. 28 U.S.C. § 2253. Before an appeal may be entertained, a prisoner who was denied habeas relief in the district court must first seek and obtain a COA from a circuit justice or judge."); 28 U.S.C. § 2253(c)(1)(A) (noting that a COA is needed for habeas actions); Fed. R. App. P. 22(b)(1) ("In a habeas corpus proceeding in which the detention complained of arises

1 from process issued by a state court, or in a 28 U.S.C. § 2255 proceeding, the applicant cannot
2 take an appeal unless a circuit justice or a circuit or district judge issues a certificate of
3 appealability under 28 U.S.C. § 2253(c).”). Accordingly, Plaintiff’s motion for a certificate of
4 appealability is denied as unnecessary.

5
6 IT IS SO ORDERED.

7 Dated: **April 18, 2024**


UNITED STATES MAGISTRATE JUDGE